



American Prosecutors Research Institute

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EQUAL JUSTICE: INVESTIGATION AND PROSECUTION OF CHILD ABUSE JUNE 2–6, 2008 MEMPHIS, TENNESSEE

Equal Justice is a five-day course designed specifically to meet the needs of front line child abuse professionals: prosecutors; investigators; forensic interviewers; social service and child advocacy center staff; medical and emergency response personnel; and, victim/witness advocates. Professional topics to be addressed at this conference include: a multidisciplinary response to the investigation and prosecution of child sexual abuse, physical abuse and neglect cases; medical aspects of child abuse; forensic interviewing; online crimes against children; forensics; pre-trial and trial tactics; and, working with developmentally delayed and other special victims. Conference participants will be taught by and have the opportunity to interact with many of the nation's foremost child abuse experts. For more information about this conference, please contact the National Center for Prosecution of Child Abuse at 703.549.9222.

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Update

“And Then He Choked Me”: Understanding and Investigating Strangulation

By Allison Turkel¹

What is Strangulation?

Ten percent of violent deaths in the United States are attributable to strangulation.² The fatality risk for women and children is alarming.³

Despite the high fatality risk of strangulation, it is often misunderstood or misidentified as something far less serious. Frequently, in adult domestic violence cases, in child abuse cases and in sexual assault cases there is an allegation by the victim that, “he choked me.” The victims describe the perpetrator either grabbing their throat with one hand or with two hands; others describe a chokehold where the defendant used the crook of their arms; or, on rare occasions, victims report being garroted⁴ or strangled with a ligature. In fact, the grabbing, suppression, squeezing or crushing of the throat is actually strangulation. In homicides there often are no external injuries, yet pathologists frequently discover broken hyoid bones⁵ and otherwise hidden indicia of strangulation even in children.⁶ Although cases of child abuse of teenagers is under reported, teens do report being grabbed by the neck and thrown up against the wall by parents, and smaller children have been known to be yanked by their throats and slammed down by abusers. In order for child protection professionals such as 911 operators, prosecutors, law enforcement officers, courts, doctors, EMS, and legislators to adequately respond and intervene in these cases it is essential that we utilize the correct word—strangulation—and that specific medical intervention takes place and that a competent, thorough investigation is initiated.

Dangers Associated with Strangulation

It is necessary to understand a bit about physiology in order to understand what makes strangulation so dangerous.

Carotid arteries are the major vessels that transport oxygenated blood from the heart and lungs to the brain. These are the arteries at the side of the neck that persons administering CPR (cardiopulmonary resuscitation) check for pulses. Jugular veins are the major vessels that transport deoxygenated blood from the brain back to the heart. The general clinical sequence of a victim who is being strangled is one of severe pain, followed by unconsciousness, followed by brain death. The victim will lose consciousness by any one or all of the following: blocking of the carotid arteries (depriving the brain of oxygen), blocking of the jugular veins (preventing deoxygenated blood from exiting the brain), and closing off the airway, causing the victim to be unable to breathe.⁷

Many times victims minimize being strangled and as a result investigators have neglected to fully investigate these incidents. In a study of three hundred misdemeanor domestic violence strangulation cases conducted by the San Diego County Attorney's Office, children were present in 41% of the cases (although this is thought by the researchers to be a low report);

89% had prior domestic violence incidents, in 50% of the cases police reported no visible injuries; in 35% the injuries were too minor to photograph, which included redness or scratch marks on the neck. Only 15% of the cases had photographs that could be used in evidence.⁸ There was some documentation of other non-visible injuries such as pain when swallowing, nausea, hoarseness, shaking, loss of memory, incontinence, loss of consciousness, etc.⁹ In this study, prosecution of strangulation cases generally occurred when there was evidence of injuries from other forms of violence, independent corroboration of being strangled, and a prior history of domestic violence.¹⁰

Any report of a perpetrator placing his or her hand or arm around the neck/throat and squeezing is extremely lethal behavior and creates a grave risk of injury or death for the victim. The reality is, many times the perpetrator's use of strangulation foreshadows an escalating use of violence and homicidal intent to the victims. When the perpetrator makes the decision to place his hands around the victim's neck, he has indicated his intent. It is therefore essential that reports of “choking” be thoroughly investigated and that prosecutors understand the risk factors, have lethality assessments done and utilize this information not only for charging but for bail determinations, no contact orders and orders of protection. When investigating an adult strangulation case, the presence and concomitant abuse of children should also be investigated and charged.

Investigating Strangulation

In order to properly assess not only the legal standards necessary for charging but also to understand the lethality of the assault, it is essential to fully document what happened.

Sometimes there may not be visible injury but the victim can tell the investigator other subjective indicia of strangulation and the offenders' intent. Given the danger of internal injury, it is essential that any potential victim, child or adult, be taken for a medical exam or to otherwise obtain medical attention as soon as possible.

Investigators need to:

1. Record the victim's exact words (i.e. “he choked me”).
2. Get a description of the mechanism for the injury. Did he use personal weapons or other weapons i.e. ligatures, straight objects, his hands, arms, knees etc? If other weapons were used, try to locate and seize them.
3. Document the amount of pressure used (i.e. was she pushed down onto the floor, or did he squeeze and squeeze)? Where exactly were his hands, or arm or ligature on the neck/throat? Did she report any problems breathing, catching her breath, or losing the ability to breathe? This is critical because problems with breathing may indicate an underlying injury that has been known to result in death even 36 or more hours later (i.e. internal swelling and undetected internal injuries).
4. Ask about the perceived duration of the strangulation.

tion. However, keep in mind the victim’s recollection may not be accurate due to severity of the assault, passing out, or fear when he was strangling her.

- What did the perpetrator do immediately prior to the strangulation? Did the victim’s head strike anything? If so, are there any additional injuries? Do not forget to document the rest of the incident. Has he used “choking” before?
- What words did the perpetrator use (i.e. I am going to kill you...).
- Ask the victim if she lost consciousness and, if so, for how long? How does she know? Be aware that sexual assault may be a possibility. Were there any mental status changes?
- Document any pain or problems with swallowing, sore throat or hoarseness. Did her voice change? Consider audio/ videotaping the victim in order to capture the change in voice as a result of the strangulation. Also obtain follow-up voice information as well as pre-cursor voice information (i.e. home video or telephone answering machine).
- The tiny red spots (petechiae) characteristic of many cases of strangulation are due to ruptured capillaries—the smallest blood vessels in the body—and sometimes may be found only under the eyelids (conjunctivae). However, sometimes they may be found around the eyes in the periorbital region, anywhere on the face, and on the neck in and above the area of constriction. Petechiae tend to be most pronounced in ligature strangulation. Blood red eyes (subconjunctival hemorrhages) are due to capillary rupture in the white portion (sclera) of the eyes. This phenomenon suggests a particularly vigorous struggle between the victim and assailant.¹¹ If petechiae exist, photograph them. If possible, seek assistance from a medical forensic specialist in identifying and documenting petechiae.
- Document any external injuries such as redness or scratches. Keep in mind that scratches on the victim’s neck may be caused by her own fingernails when trying to pry the assailant’s hands off her neck. The victim may have abrasions to her chin caused by holding it down in defense of her neck. The investigator should also check for bruises, fingertip or thumb prints (sometimes around the ears). Be sure to do follow-up for photographs in order to capture the maturing of injuries. Recover skin from the nails of the victim and the perpetrator.
- The assailant may have defensive wounds, such as scratches to his face or arms, or bruises on his shins from being kicked. Check for scratches to hands and elbow area and bite marks to his arms or chest. Perpetrators sometimes assert that they were acting in self defense because the victim bit him. In anticipation of this defense, consider where the bite mark is and if it is at all credible that she could bite the perpetrator unless he was in close proximity to her. Photograph all injuries, no matter how minor. Document the assailant’s demeanor.
- Document any nausea or vomiting.
- Document any muscle injuries. Did she lose ability to stand, did her legs go out, did she lose the ability to walk?
- Did she urinate or defecate while being strangled?
- Is she dizzy or having trouble focusing or paying attention? It is important to document the victim’s mental state, and have the victim assessed. What is her demeanor?
- Ask what in general she did to defend herself and even if appropriate what was going through her mind as it was happening. What did she think was going to happen?
- Was anyone else present? Were the children home?

Some jurisdictions have created specific reports for strangulation cases so that they record all the pertinent information.¹² Often victims will refuse to go to the hospital. Every effort should be made to encourage her to get medical attention. It is imperative that victims are examined by trained medical personnel so that hidden injuries are discovered, such as swelling or injuries to the interior of the throat that can be life threatening.¹³ Interview and interrogate the suspect, preferably after procuring a good amount of information from the victim and having identified and interviewed any witnesses, including children, and having elicited medical opinions or any relevant test results. Demonstrations are helpful although investigators should anticipate that suspects will minimize their actions.

The State of the Law

As a result of a greater understanding of strangulation and the risk factors associated with it, many legislatures have passed statutes designating strangulation as a specific crime or enhancing sentencing when the victim has been strangled.¹⁴

Although state statutes addressing strangulation give investigators/prosecutors additional charging options, it is not necessary to have a designated crime as long as there is a thorough investigation. Prosecutors can charge attempted homicide when the facts are sufficient (i.e. when the defendant says “I am going to kill you” and then strangles the victim). In *People v Miller*, the defendant’s conviction for depraved indifference assault was upheld where the court determined that the defendant’s action of squeezing the victim’s neck long enough to cause her vision to fade was sufficient to prove the necessary element of risk of death.¹⁵ Expert testimony at trial describing the mechanisms and risks associated with strangulation may be required to establish the elements of the crime. Prosecutors in states that do not have designated strangulation crimes should consider all the facts and risk factors in determining the charges.

The Role of Prevention

In many cases, it takes a great tragedy for the criminal justice system to reform. For example, the impetus for the San Diego City Attorney’s Office to do a longitudinal study on strangulation was the murder of two teenage victims who had previously reported strangulation incidents.¹⁶ This is not a crime, though, in which we can act only after the fact. It is essential for advocates, prosecutors and law enforcement to educate adult victims on the lethality of strangulation, how quickly they could die and to advise professionals who work with child abuse victims to get children to elaborate their reports of being grabbed around the neck as well. Prevention is a key element of enforcement and prosecution of child abuse and domestic violence. Diligently investigating and prosecuting cases of strangulation just might save a life.

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² Gael B. Strack, JD, George E. McClane, MD, Dean Hawley, MD. A Review Of 300 Attempted Strangulation Cases, Part I: Criminal Legal Issues: The Journal of Emergency Medicine, Vol. 21, No. 3, pp. 303–309 (2001).

³ Minnesota Coalition for Battered Women. Special Femicide Report: Strangulation and Women and Children Murdered in Minnesota, 1989–2005, downloaded August 7, 2007 <http://www.mcbw.org/>.

⁴ *Merriam-Webster’s Collegiate Dictionary, Eleventh Edition*. Garotte: an implement (as a wire with a handle at each end) for strangulation.

⁵ *Merriam-Webster’s Collegiate Dictionary, Eleventh Edition* Hyoid bone: U-shaped bone or complex of bones that is situated between the base of the tongue and the larynx and that supports the tongue, the larynx, and their muscles—called also *hyoid*, *lingual bon*.

⁶ Dean A. Hawley, MD, George E. McClane, MD, and Gael B. Strack, JD, A Review Of 300 Attempted Strangulation Cases, Part III: Injuries In Fatal Cases. The Journal of Emergency Medicine, Vol. 21, No. 3, pp. 317–322 (2001).

⁷ Correlation of Circumstances with Pathological Findings in Asphyxial Deaths by Hanging: A Prospective Study of 61 Cases from Seattle, WA, Journal of Forensic Sciences, JFSCA, 30:4, Oct. 1985, 1140–47.

⁸ Strack, McClane & Hawley, *supra*, at 305.

⁹ *Id.* at 305.

¹⁰ *Id.* at 306.

¹¹ Hawley, McClane & Strack, *supra*, at 317.

¹² Mercer County Prosecutor’s Office Strangulation Report, contact at (609) 989-6351.

¹³ George E. McClane MD, Gael B. Strack, JD, and Dean Hawley, MD. A Review Of 300 Attempted Strangulation Cases, Part II: Clinical Evaluation Of The Surviving Victim, The Journal of Emergency Medicine, Vol. 21, No. 3, pp. 311–315 (2001).

¹⁴ Nineteen states have designated strangulation statutes: AK, CT, FL, HI, ID, IN, LA, MA, MD, MI, MN, MO, NC, NE, OK, OR, VA, WA, WV.

¹⁵ *People v. Miller*, 290 A.D. 2d 814; 736 N.Y.S. 2d 773.

¹⁶ Strack, McClane & Hawley, *supra* at 304.

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